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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,366	02/05/2002	Robert E. Fischer	053768.0002	6046
7590 11/17/2003				
ROBERT E. FISCHER 3050 E. HILLCREST DRIVE WESTLAKE VILLAGE, CA 91362		EXAMINER KOVAL, MELISSA J		
		ART UNIT PAPER NUMBER		
		2851		

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,366

Applicant(s)

FISCHER ET AL.

Examiner

Melissa J Koval

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12, 14-16, 19-21 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 26-30, 34 and 35 is/are rejected.
- 7) ☒ Claim(s) 12-16, 19-21, 23-25, 31-33 and 36 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 0703 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "D" has been used to designate both distance D and diffuser D in Figure 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The amendment filed July 28, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

On page 4 of the amendment, the amendments to paragraph [0016], implicitly change the definition of distance D. In the specification as originally filed, one may interpret distance D to describe a distance wherein light output from the imaging lens is focused, but the quality of the illumination is not specified. Only "a sharp and well-defined image" is specified in line 20 of paragraph [0016]. Furthermore the changes, as follows, "so that objects at different distances D can be selectively uniformly illuminated with flashlight beam B" are not supported by the original specification. Without a clear definition in the original specification describing how some distance D, interpreted to be a single distance, effects quality of illumination, there is also no support for different

distances D providing uniform illumination. The proposed changes to the drawings show a single distance D as opposed to multiple distances D_i . The amendments to paragraph [0019] furthermore change the meaning of the original specification. In the original specification, an invention providing a higher level of light or photon efficiency using existing technology flashlight bulbs 2 is described. The specification is amended to describe "a flashlight beam having a higher level of uniformity than current flashlights using existing technology flashlight bulbs 2. Thus, as amended, a very different meaning for the invention is taught. The amendment goes on to say "Flashlight beam non-uniformity (i.e., the inability to uniformly illuminate an object to be viewed with a flashlight) has been one of the common problems of flashlights for many, many years, and through this invention we have finally solved this problem." The suggested problem to be solved by the invention prior to the amendment was to increase uniformity as a function of brightness, as opposed to eliminating non-uniformity of the image by eliminating non-uniformity of the flashlight beam.

In the amendment to paragraph [0023], the diffuser described therein is designated with reference character "D". In the proposed corrections to Figure 1, diffuser D and distance D could be easily confused, one with the other.

Any subsequent amendments to the specification should be reflected by subsequent amendments to the Abstract of the Disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claims 26 and 34 are objected to because of the following informalities: The claim as newly amended includes the grammatically awkward phrase, "forming a flashlight beam to uniformly illuminating an object at a select distance from the flashlight." With respect to claim 34, the following phrase, "a light homogenizer optically coupled to the light source and adapted to uniformized light from the light source and output uniformized light at an output face", seems to be missing a word or words. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 2, 4, 7, 8, 9, and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Koch-Bossard et al. ('845).

Refer to the aiming projector shown in Figures 1-4 of Koch-Bossard et al., for example.

For the purpose of the following rejection, a flashlight is interpreted to be any portable, battery operated illumination device. Clearly this is met by the device and embodiments shown by Koch-Bossard et al. ('845). The battery is shown in Figure 10 and described as accumulator 37.

Claim 1 sets forth: "A flashlight for uniformly illuminating an object to be viewed, comprising:

a light source (filament 7, refer to column 3, line 59);

a light homogenizer arranged to receive light from the light source at an input face and adapted to output uniformized light at an output face (Mirror 8 appears from the figures, and its description as "a conical inner face" in column 3, line 60, to be functioning as a well-known homogenizer.); and

an imaging lens arranged adjacent the output face and at an output end of the flashlight to create a flashlight beam that forms an image of the output face at a distance from the output end of the flashlight so as to uniformly illuminate the object when the object is located at said distance (See positive part system 2 of a telephoto lens directly located with the negative part system 3 in holder 4, as well as annular area 12 with bright spot 13 in the middle. Also refer to column 4, lines 11 through 38.)."

Any object located at a distance coinciding with bright spot 13 would be uniformly illuminated at that spot. The same applies to objects located within the annular ring 12, but outside of the bright spot. Application's specification does not include a teaching that

would define the concepts of uniform and non-uniform illumination in such a way that the plain language of the claim overcomes the reference.

With respect to claim 2, refer to spherical mirror 10.

With respect to claims 4, filament 7 could belong to either a flashlight bulb or an arc lamp. Refer to column 3, lines 62 and 63. Also refer to Figure 5.

With respect to claim 7, refer to the remarks applied in the rejection of claim 1, specifically directed to a telephoto lens.

With respect to claims 8 and 9, refer to holder 4, central passage 4' and shutter 4".

Claims 26 and 27 are rejected for the same reasons applied to already rejected claim 1. The method described therein is clearly defined by the apparatus disclosed by Koch-Bossard et al.

With respect to claim 28, refer to accumulator 37.

Claims 29 and 30 are rejected for the same reasons already applied to rejected claims 8 and 9.

Claims 1-8, 10, 26-28, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox ('661).

Refer to Figure 1 of Fox, for example.

Claim 1 sets forth: "A flashlight for uniformly illuminating an object to be viewed, comprising:

a light source (light 11);

a light homogenizer arranged to receive light from the light source at an input face and adapted to output uniformized light at an output face (diffusion plate or screen 21); and

an imaging lens arranged adjacent the output face and at an output end of the flashlight to create a flashlight beam that forms an image of the output face at a distance from the output end of the flashlight so as to uniformly illuminate the object when the object is located at said distance (collimating or condensing lens 23)."

Refer to column 3, lines 8 through 18, for a discussion of uniformity of light.

Claim 2 sets forth: "The flashlight of claim 1, further comprising:

a reflector adapted to reflect light from the light source towards the input end of the light homogenizer (elliptical reflector 13). Thus claim 3 is also met.

With respect to claim 4, refer to the 24-watt metal halide lamp comprising light 11.

Claim 5 sets forth: "The flashlight of claim 1, further including one or more batteries connected to the light source to power the light source." Refer to battery 31 and electronic ballast 33.

Claim 6 sets forth: "The flashlight of claim 5, further including a hand-held housing that houses the light source, the light homogenizer, the imaging lens and the one or more batteries." Refer to flashlight container 17.

With respect to claim 7, refer to column 4, lines 1 through 14.

Claim 8 sets forth: "The flashlight of claim 1, further comprising a light modifying component arranged at the output face of the light homogenizer." Refer to UV filter 25.

With respect to claim 10, it is well known in the art that UV filters comprise a layer or layers of UV film.

Claim 26 is rejected for the same reasons applied to already rejected claim 1. The method described therein is clearly defined by the apparatus disclosed by Fox.

Similarly, claim 27 is rejected for the same reasons already applied to rejected claim 7.

Claim 28 is rejected for the same reasons already applied to rejected claim 5.

With respect to claims 34 and 35, refer to the rejection of claims 1 through 8 above.

Claims 1, 4, 8-10, 26, and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tano. ('723 B1)

Refer to the image display device shown in Figures 2 of Tano, for example.

For the purpose of the following rejection, a flashlight is interpreted to be any portable, battery operated illumination device.

Claim 1 sets forth: "A flashlight for uniformly illuminating an object to be viewed, comprising:

a light source (light source 310);

a light homogenizer arranged to receive light from the light source at an input face and adapted to output uniformized light at an output face (condenser lens 320);
and

an imaging lens arranged adjacent the output face and at an output end of the flashlight to create a flashlight beam that forms an image of the output face at a distance from the output end of the flashlight so as to uniformly illuminate the object when the object is located at said distance (Refer to slide 330 and projection or dispersal lens 340. The image illuminated and projected onto target screen 350 is uniformly illuminated).”

Furthermore with respect to claim 1, the embodiment shown in Figure 12 makes use of laser light, thus providing a light beam that is collimated and uniform.

With respect to claim 4, light source 310 appears to be a conventional flashlight bulb.

With respect to claims 8, 9 and 10, refer to slide transparency 330, aperture or slot 331, and track 333.

Claim 26 is rejected for the same reasons applied to already rejected claim 1. The method described therein is clearly defined by the apparatus disclosed by Tano. Also refer to projection lens 340.

With respect to claim 28, refer to small battery 170.

Claims 29 and 30 are rejected for the same reasons already applied to rejected claims 8 and 9.

Allowable Subject Matter

Claims 12-16, 19-21, 23-25, 31-33 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art neither shows nor suggests the use of light pipe or lens array technology in the flashlight or battery operated illumination device art as described in claims 12-16, 19-21, 23-25, 31-33 and 36.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The art made of record and not relied upon is considered pertinent to applicant's disclosure.

Winn et al. U.S. Patent 6,394,116 B1 teaches an illuminated walking assistance apparatus.

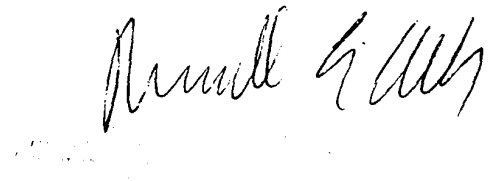
Ebersole U.S. Patent Application Publication US 2002/0159260 A1 teaches a rainbow projection light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa J Koval whose telephone number is (703) 308-4801. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Adams can be reached on Monday through Thursday at (703) 308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MJK
November 10, 2003

A handwritten signature in black ink, appearing to read "Russell Adams", is written over a faint, circular official stamp.